

REMARKS

Reconsideration is requested in view of the above amendments and the following remarks. Claims 1 and 17 have been revised to each include the feature of claim 5, with editorial revisions. Claim 5 has been canceled accordingly. Claims 6 and 8 have been revised to depend from claim 1. New claim 25 have been added. Support for new claim 25 can be found at, e.g., Fig. 6, among other places. Claims 1-4 and 6-25 are pending in the application.

Claim Rejections-35 USC § 102

Claims 1 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Mauze et al. (U.S. Patent No. 6,210,420). Claims 1 and 17 have been revised to each include the feature of claim 5 and thus are not subjected to this rejection.

Claims 1, 17, 23 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Moerman et al. (U.S. Published Patent Application No. 2002/0130042). Claims 1 and 17 have been revised to each include the feature of claim 5 and thus are not subjected to this rejection.

Claim Rejections 35 USC § 103

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (U.S. Patent No. 7,131,984) in view of Mauze et al. (U.S. Patent No. 6,210,420). Applicants respectfully traverse this rejection.

Claim 1 requires a moving member having a needle attached thereto that is moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space, where the pressure difference causes the moving member to receive a force directed in a retreating direction.

Sato et al. and Mauze et al., either alone or in combination, fail to teach or suggest this arrangement. Sato et al. merely discuss a pump mechanism 3 including a plunger 32 and a cylinder 31 that allows the plunger 32 slidably fitted therein (see Sato et al., col. 6, lines 46-49). Col. 7, lines 4-22 of Sato et al. discuss how the pump mechanism 3 works to cause a vacuum in the space 21 of the housing, and specifically, how valves 33A, 33B work with the pressure chamber 30 to pump the air out of the space 21 through the pressure chamber 30. The movement

of the cylinder 31 in directions N1, N2 is not driven by a pressure difference between the pressure chamber 30 and the space 21. In fact, the movement of the cylinder 31 merely generates a negative pressure to be applied to the skin Sk, but does not cause the cylinder 31 to move (see Sato et al., col. 7, lines 2-22 and Figs. 5 and 6).

Mauze et al. do not remedy the deficiencies of Sato et al. Mauze et al. merely discuss a lancet launcher 100 including a body 104 and a head 106, where a void volume in a head channel 156 is increased when a piston 114 is pulled backward, thereby reducing the air pressure therein to a pressure less than that of an ambient pressure, i.e., the air pressure external to the head 106. That is, the reduced pressure in Mauze et al. is caused by the pull back of the piston 114, but does not cause the piston 114 to move. In fact, Mauze et al. discuss a backward movement of a piston 178 being caused by a restoring force of a resilient support 204, but not by a pressure difference, upon removal of the suction via a suction port 180 (See Mauze et al., col. 6, lines 20-22.).

The references of record are completely silent as to a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space, where the pressure difference causes the moving member to receive a force directed in a retreating direction, as required by claim 1.

Moreover, there is no reasonable basis to modify the lancing device A1 in Sato et al. with the lancet launcher 100 of Mauze et al. In fact, as shown in Fig. 1 of Sato et al., the lancing device A1 in Sato et al. already includes a needle 10b. The cylinder 31 is merely a component of the pump mechanism 3 and one skilled in the art would not use it for attaching a needle. Further, the references of record provide no teaching or suggestion of why it is obvious for a skilled in the art to combine Sato et al. and Mauze et al. and how to combine the two references to arrive at the invention of claim 1. For at least these reasons, claim 1 is patentable over Sato et al. in view of Mauze et al. Claims 2-4, 6-16 and 23 depend ultimately from claim 1 and are patentable along with claim 1 and need not be separately distinguished at this time.

Claim 17 is patentable over Sato et al. and Mauze et al. for reasons similar to those discussed above for claim 1. Claim 17 requires a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space, where the pressure difference causes the moving member to receive a force directed in a retreating direction. Sato et al. and Mauze et al. fail to disclose such an

arrangement as required by claim 17. For at least these reasons, claim 17 is patentable over Sato et al. in view of Mauze et al. Claims 18-22 and 24 depend ultimately from claim 17 and are patentable along with claim 17 and need not be separately distinguished at this time.

Claims 1-24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (U.S. Patent No. 7,131,984) in view of Moerman et al. (U.S. Published Patent Application No. 2002/0130042). Applicants respectfully traverse this rejection.

Likewise, Moerman et al. do not remedy the deficiencies of Sato et al. Moerman et al. merely discuss that a backwards motion of a lancet assembly after the skin is pierced creates a reduced pressure in this region (See Moerman et al., last sentence of paragraph [0028].). In fact, as clearly illustrated in Figs. 2A-C and paragraph [0028] of Moerman et al., the reduced pressure in the inner space of the housing 1 in Moerman et al. is generated as a result of a backward motion of a plunger 24, where the backward motion of the plunger 24 is caused by a restoring force of a spring 20, but not by a pressure difference produced between two spaces.

The references of record are completely silent as to a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space, where the pressure difference causes the moving member to receive a force directed in a retreating direction, as required by claim 1.

Moreover, there is no reasonable basis to modify the lancing device A1 in Sato et al. with the lancet 20 of Moerman et al. In fact, as shown in Fig. 1 of Sato et al., the cylinder 31 is merely a component of the pump mechanism 3 and one skilled in the art would not use it for attaching a needle. Further, the references of record provide no teaching or suggestion of why it is obvious for a skilled in the art to combine Sato et al. and Moerman et al. and how to combine the two references to arrive at the invention of claim 1. For at least these reasons, claim 1 is patentable over Sato et al. in view of Moerman et al. Claims 2-4, 6-16 and 23 depend ultimately from claim 1 and are patentable along with claim 1 and need not be separately distinguished at this time.

Claim 17 is patentable over Sato et al. and Moerman et al. for reasons similar to those discussed above for claim 1. Claim 17 requires a moving member being moved in a retreating direction to be brought to a standby position by a pressure difference produced between a first space and a second space, where the pressure difference causes the moving member to receive a

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force directed in a retreating direction. Sato et al. and Moerman et al. fail to disclose such an arrangement as required by claim 17. For at least these reasons, claim 17 is patentable over Sato et al. in view of Moerman et al. Claims 18-22 and 24 depend ultimately from claim 17 and are patentable along with claim 17 and need not be separately distinguished at this time.

Applicants are not conceding the relevance of the rejection to the remaining features of the rejected claims. Reconsideration of the rejection is respectfully requested.

In view of the above, favorable reconsideration in the form of a notice of allowance is respectfully requested. Any questions regarding this communication can be directed to the undersigned attorney, Douglas P. Mueller, Reg. No. 30,300, at (612) 455-3804.

Respectfully submitted,

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